

Democratic Party

27 January 1995

DEMOCRATIC PARTY: SUBMISSION TO THEME COMMITTEE 3
ON "THE NATURE OF THE PROVINCIAL SYSTEM
AND LOCAL GOVERNMENT

(Ref T.C. 3 no 1)

1. The Democratic Party attaches great importance to both Provincial and Local Government. It at these levels in a three-tiered structure of government that government with its accountability can be taken closest to the people, and where the people with the democratic responsibility can be taken closest to government.
2. Subject only to consideration of the essential national interest decisions, both legislative and executive, should be taken at the level that is closest to the people who will be affected by such decisions.
3. The Constitution Principles most relevant to the issue of Provincial and Local Government are the following:

"Government shall be structured at national, provincial and local levels.'

xvii

"At each level of government there shall be democratic representation. This principle shall not derogate from the provisions of Principle XIII.'

xviii

2. "The powers and functions of the provinces defined in the Constitution, including the competence of a provincial legislature to adopt a constitution for its province, shall not be substantially less than or substantially inferior to those provided for in this Constitution.

"A framework for local government powers, functions and structures shall be set out in the Constitution. The comprehensive powers, functions and other features

of local government shall be set out in parliamentary statutes or in provincial legislation or in both.

xx

'Each level of government shall have appropriate and adequate legislative and executive powers and functions that will enable each level to function effectively. The allocation of powers between different levels of government shall be made on a basis which is conducive to financial viability at each level of government and to effective public administration, and which recognises the need for and promotes national unity and legitimate provincial autonomy and acknowledges cultural diversity. '

xxv

'The national government and provincial governments shall have fiscal powers and functions which will be defined in the Constitution. The framework for local government referred to in Principle XXIV shall make provision for appropriate fiscal powers and functions for different categories of local government.'

xxvi

'Each level of government shall have a constitutional right to an equitable share of revenue collected nationally so as to ensure that provinces and local governments are able to provide basic services and execute the functions allocated to them.'

xxu

'The national government shall not exercise its powers (exclusive or concurrent) so as to encroach upon the geographical, functional or institutional integrity of the provinces.'

4. The Constitutional Principles in XXI also sets out 'the criteria to be applied in the allocation of powers to the national government and the provincial governments.'
5. What emerges from the above is that the Constitution must make specific provision for the following:
 - i) The structuring of government at national, provincial and local levels.

- ii) The powers and functions including fiscal powers and functions of the national and provincial governments.
 - iii) The boundaries of the Provinces.
 - iv) A framework for the powers, functions and structures including fiscal powers and functions of Local Governments.
 - v) The constitutional right of each level of government to an equitable share of Revenue collected nationally.
6. The DP will submit detailed proposals on these issues as the work of the Theme Committee in terms of the 'Blocks' in the work programme unfolds.
7. What is however of critical importance to the DP is that the powers and functions of each of the levels of Government must be defined in the constitution in a manner that will allow for cooperation, but not encroachment, between the respective levels.

Colin Eglin MP
27 January 1995